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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,252	02/11/2004	Galyn A. Schulz	02734.0492-00000	1102
22852	7590	08/24/2006	EXAMINER	
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			HUG, ERIC J	
			ART UNIT	PAPER NUMBER
			1731	

DATE MAILED: 08/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 17-27, drawn to a method for embossing a web, classified in class 162, subclass 117.
- II. Claims 1-10 and 28-33, drawn to an embossing system, classified in class 162, subclass 362.
- III. Claims 11-16, drawn to an embossed web product, classified in class 428, subclass 152.

Regarding invention I, the application contains claims directed to the following patentably distinct species:

I-A. A method of embossing a web by passing the web through an embossing unit comprising three embossing rolls defining two nips (claims 17-23).

I-B. A method of embossing a web by passing the web through an embossing unit comprising two embossing rolls capable of being shifted (claims 24-27).

The species are independent or distinct because they are different embodiments that are not disclosed as being used together and have different modes of operations.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and III are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make another and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). For example, the embossed web can be made by passing the web repeatedly through a single embossing device, or by passing the web through successive embossing devices.

Inventions II and III are related as apparatus and product made. The inventions in this relationship are distinct if either or both of the following can be shown: (1) that the apparatus as claimed is not an obvious apparatus for making the product and the apparatus can be used for making a materially different product or (2) that the product as claimed can be made by another and materially different apparatus (MPEP § 806.05(g)). For example, the embossed web can be made by an apparatus comprising successive pairs of embossing rolls.

Inventions I-B and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, the different inventions use systems of different designs and have different modes of operation.

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Inventions I-A and II are common to each other and therefore can be grouped together into a single election.

Where it is necessary to search for one of the inventions in a manner that is not likely to result in finding art pertinent to the other inventions, there is a serious burden on the examiner if restriction is not required, even if inventions are classified together. Although different fields of searches may overlap, the degree to which they overlap is minimal and not nearly sufficient to include the type of subject matter covered by the claims.

Because these inventions are independent or distinct for the reasons given above and the inventions require different fields of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

Where there is no disclosure of a relationship between species, they are independent inventions. A restriction is proper if there is a patentable difference between the species as claimed, and therefore would be a serious burden on the examiner if restriction is not required.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

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Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

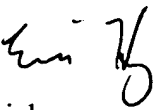
Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Hug whose telephone number is 571 272-1192.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 571 272-1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


jeh